

**THIS DECISION HAS BEEN APPEALED. THE  
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-02-3775.M4**

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

**I. DISPUTE**

1. a. Whether there should be additional reimbursement of \$383.50 for date of service 11/07/01?
- b. The request was received on 02/04/02.

**II. EXHIBITS**

1. Requestor, Exhibit I:
  - a. TWCC 60 and Requestor Rationale for Dispute Resolution on Table of Disputed Services
  - b. HCFA(s)
  - c. TWCC 62 forms
  - d. EOBs from other carriers
  - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
  - a. TWCC 60 and Response to a Request for Dispute Resolution dated 02/07/02
  - b. HCFA(s)
  - c. SOAH decision 453-01-1179.M4, 453-01-1262.M4, and 453-01-1263.M4
  - d. TWCC 62 form
  - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 02/22/02. Per Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on 02/28/02. The response from the insurance carrier was received in the Division on 02/07/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Medical Dispute is reflected as Exhibit III of the Commission's case file.

### **III. PARTIES' POSITIONS**

1. Requestor:
  - a. “We feel that we are due further reimbursement for the durable medical equipment that we provided this patient with. We billed this equipment at a fair and reasonable rate and were not paid at the full billed amount. This equipment should not have been reduced. We are requesting additional payment with interest.”
2. Respondent:
  - a. “In the case presented there is no MAR value, and accordingly, the amount paid was a fair and reasonable amount for the equipment. The Requestor would draw to the attention of the TWCC the recent decision by the State Office of Administration Hearings dated January 23, 2002 (a copy of this decision is attached hereto and incorporated herein for all purposes). The decision and order clearly sets forth the application of the Act 413.011 (a) that would require the Commission to establish medical policies and guidelines relating to fees charged for medical services ( see attached SOAH decision, page 16). The Administrative Law Judge (ALJ) in a clear and careful analysis of the Act sets forth that in accordance with Commission Rule 134.1(f), the TWCC is required to use §413.011 (b) to establish a payment rate for services not identified in the Fee Guidelines. Accordingly, the TWCC must embody the applicable standard or standards of §413.011 (a) in a determination as to the fair and reasonable amount to be paid.”

### **IV. FINDINGS**

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 11/07/01.
2. The provider billed \$865.00 for the date of service 11/07/01.
3. The carrier reimbursed the provider \$481.50 for the date of service 11/07/01.
4. The amount in dispute is \$383.50 for the date of service 11/07/01.
5. The denial codes on the submitted EOB are M-“REDUCED TO FAIR AND REASONABLE.”
6. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB Denial Code(s)	MARS (Maximum Allowable Reimbursement)	REFERENCE	RATIONALE:
11/07/01	L1499	\$50.00	\$7.50	M	DOP	TWCC Sec. 413.011 (d)	The provider's only evidence of fair and reasonable is by submitted EOBs from other insurance carriers. The burden remains on the provider to prove that the amount of reimbursement is fair and reasonable. The provider has not submitted any evidence or a methodology they used to determine fair and reasonable. In light of recent SOAH decisions, where providers had submitted EOBs for fair and reasonable, SOAH has placed minimal value on EOBs for documenting fair and reasonable. Therefore, additional reimbursement is not recommended.
11/07/01	E0745	\$475.00	\$150.00	M	DOP	TWCC Sec. 413.011 (d)	The provider's only evidence of fair and reasonable is by submitted EOBs from other insurance carriers. The burden remains on the provider to prove that the amount of reimbursement is fair and reasonable. The provider has not submitted any evidence or a methodology they used to determine fair and reasonable. In light of recent SOAH decisions, where providers had submitted EOBs for fair and reasonable, SOAH has placed minimal value on EOBs for documenting fair and reasonable. Therefore, additional reimbursement is not recommended.
11/07/01	E1399	\$215.00	\$182.75	M	DOP	TWCC Sec. 413.011 (d)	The provider's only evidence of fair and reasonable is by submitted EOBs from other insurance carriers. The burden remains on the provider to prove that the amount of reimbursement is fair and reasonable. The provider has not submitted any evidence or a methodology they used to determine fair and reasonable. In light of recent SOAH decisions, where providers had submitted EOBs for fair and reasonable, SOAH has placed minimal value on EOBs for documenting fair and reasonable. Therefore, additional reimbursement is not recommended.

11/07/01	E1399	\$125.00	\$106.25	M	DOP	TWCC Sec. 413.011 (d)	The provider's only evidence of fair and reasonable is by submitted EOBs from other insurance carriers. The burden remains on the provider to prove that the amount of reimbursement is fair and reasonable. The provider has not submitted any evidence or a methodology they used to determine fair and reasonable. In light of recent SOAH decisions, where providers had submitted EOBs for fair and reasonable, SOAH has placed minimal value on EOBs for documenting fair and reasonable. Therefore, additional reimbursement is not recommended.
<b>Totals</b>		\$865.00	\$481.50				The Requestor <b>is not</b> entitled to additional reimbursement.

The above Findings and Decision are hereby issued this 14th day of June 2002.

Michael Bucklin, LVN  
Medical Dispute Resolution Officer  
Medical Review Division

MB/mb

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.